



STATE OF MAINE
DEPARTMENT OF PUBLIC SAFETY
MAINE EMERGENCY MEDICAL SERVICES
16 EDISON DRIVE
AUGUSTA, MAINE
04330

MICHAEL F. KELLY
COMMISSIONER

ANGUS S. KING, JR.
GOVERNOR

JAY BRADSHAW
DIRECTOR

**INVESTIGATIONS COMMITTEE MEETING
WEDNESDAY, SEPTEMBER 6, 2000
MAINE EMS CONFERENCE ROOM, AUGUSTA**

MEETING MINUTES

Present: S. Leach – Chair, S. Hayes, R. Doughty, C. Pillsbury, P. Knowlton

Staff: D. White, B. Montejo, J. Bradshaw

Guest: Wayne Werts, Joanne LeBrun

1. Call To Order: The meeting was called to order at 12:30 p.m.

A. Additions/Deletions to the Agenda -

B. Accept Minutes of the June 7, 2000 Meeting

2. Investigations

A. Barry Nickelsberg – Informal Conference

Barry Nickelsberg and Falmouth EMS Director David Libby were present for the scheduled informal conference In re: case #00-13. In addition to the Committee members, D. White, B. Montejo and J. Bradshaw of the Maine EMS staff, and W. Werts of the Maine EMS Board, attended.

Motion: To enter executive session for the purpose conducting an informal conference with licensee Barry Nickelsberg (Hayes; Doughty – motion carries).

The Committee entered executive session at 1:50 p.m. and exited executive session at 2:11 p.m.

Following the executive session, the Committee discussed Mr. Nickelsberg's conduct in regards to his contacting a former patient and soliciting further medical information from the patient.

Motion: That licensee Barry Nickelsberg obtained information from the run report of a female patient whom he had treated for the purpose of later contacting the patient for reasons not within the scope of his Paramedic license; that he contacted said former patient and solicited a detailed medical history from the patient; that he advised said former patient about her medical conditions; that the aforementioned actions were beyond his scope of practice as a Paramedic and represented a breach of professional conduct and a violation of 1MRSA §402; and, that Mr. Nickelsberg used his position and influence as a Paramedic in an attempt to initiate a personal relationship with the former patient. Therefore the Committee finds Mr. Nickelsberg in violation of §§ 12.A.6, 12.A.7(a), and 12.A(17) of the Maine EMS Rules, dated September 1, 1996 (Hayes; Doughty – motion carries).

The Committee then discussed what type of disciplinary action would be appropriate in this case. Committee members were very concerned about Mr. Nickelsberg's behavior and actions.

Motion: To recommend to the Board that Mr. Nickelsberg's EMS license be revoked (Pillsbury; Doughty 2-2-1; Hayes and Leach against with Knowlton abstaining – motion does not carry).

S. Hayes then suggested that Mr. Nickelsberg be offered a consent agreement stipulating a six month license suspension.

Motion: To seek a consent agreement with Mr. Nickelsberg which provides for a six month license suspension (Hayes; - motion dies due to lack of a second).

The Committee recognized that this case is without precedent within the Maine EMS system and deemed it advisable to seek legal counsel prior to imposing sanctions against Mr. Nickelsberg.

Motion: To table action against Mr. Nickelsberg until such time as the Committee is able to discuss the matter with its legal counsel (Hayes; Doughty – motion carries)

B. Freeport Rescue – Informal Conference

Freeport Rescue Director Paul Conley and Freeport Town Attorney Chuck Fuller were present for the scheduled informal conference In re: case #00-12. In addition to the Committee members, D. White, B. Montejo and J. Bradshaw of the Maine EMS staff, and W. Werts of the Maine EMS Board, attended.

Motion: To enter executive session for the purpose conducting an informal conference with representatives of Freeport Rescue (Hayes; Doughty – motion carries).

The Committee entered executive session at 2:50 p.m. and exited executive session at 3:20 p.m.

Committee members discussed the circumstances surrounding the practice of William Cash during a period of time in which he did not hold a valid Maine EMS license and during which time he responded to calls for medical assistance on behalf of the Freeport Rescue.

Motion: That Freeport Rescue allowed William Cash to be scheduled for and respond to medical assistance calls on behalf of the Freeport Rescue during the period of time in which he did not hold a valid Maine EMS license; that policies in place by Freeport Rescue to prevent unlicensed practice were not followed; that the circumstances of the case are mitigated by the prompt action taken by Freeport Rescue in addressing the situation; and that Freeport Rescue receive a written admonishment in this matter (Hayes; Knowlton – motion carries).

C. Terry Cook Jr. – Informal Conference

Licensee Terry Cook Jr. was present for the scheduled informal conference In re: violation by Mr. Cook of the March 10, 1999 consent agreement entered into by and among Mr. Cook, the Maine EMS Board and the Office of the Attorney General. In addition to the Committee members, D. White, B. Montejo and J. Bradshaw of the Maine EMS staff, and W. Werts of the Maine EMS Board, attended.

Motion: To enter executive session for the purpose conducting an informal conference with licensee Terry Cook Jr. (Doughty; Leach – motion carries).

The Committee entered executive session at 3:36 p.m. and exited executive session at 3:55 p.m.

The Committee reviewed Mr. Cook's history of Class D and E hunting-related crimes which occurred after he had signed a consent agreement with the Board that stipulated that "In the event any criminal charges are docketed against Mr. Cook in any State or Federal court, Mr. Cook shall immediately surrender to the Maine EMS Board any license he may possess..."

Staff indicated that Mr. Cook had voluntarily surrendered his license in accordance with the agreement.

Motion: That licensee Terry Cook Jr. violated the terms of the March 10, 1999 consent agreement entered into by and among Mr. Cook, the Maine EMS Board and the Office of the Attorney General by being convicted of Class D and Class E crimes on June 28, 2000; that the circumstances of the convictions are mitigated by the fact that the convictions did not involve theft or crime against a person, and that

Mr. Cook not be eligible for reinstatement of his EMS license until June 1, 2001 (Hayes; Leach – 3-1-1, Pillsbury against with Leach abstaining).

D. William Cash

The Committee reviewed the response of licensee William Cash, who practiced EMS patient care without a license from April – June, 2000. It was noted that Mr. Cash had completed his training/skills lab prior to the expiration of his license.

Motion: That licensee William Cash did not hold a valid Maine EMS license from April 1, 2000 to June 5, 2000; that during the time he did not hold a valid license, he practiced EMS patient care as a member of the Freeport Rescue Service; that said practice without a license is a violation of §12.A.17 of the Maine EMS Rules; and that a mitigating circumstance is that he completed training/skills lab prior to the expiration of his EMS license. Therefore, the Committee directs that Mr. Cash be offered a consent agreement that provides for the suspension of his license for 14 days, all but 10 days suspended (Hayes; Doughty – motion carries).

E. Todd Levesque

F. Paul Morrison

G. Sanford Fire Department

Staff reported that Mr. Levesque is a Sanford Fire Dept Firefighter who sent in his application in March, 2000 only to have it returned for insufficient CEH. He made no further attempt to license until the issue was discovered by the Service Director, Chief Ray Parent. Because of a CEH that was (later) approved by Maine EMS, but had not been correctly submitted, Mr. Levesque had actually taken the required number of CEH prior to the expiration of his license.

Mr. Morrison, also a Sanford Firefighter practiced unlicensed following the March, 2000 expiration of his license. He did not have enough CEH at the time of his license expiration to renew.

A concurrent investigation was initiated because Sanford Fire Department was the licensed service for which Levesque and Morrison practiced. Chief Parent made the initial notification to Maine EMS concerning the unlicensed practice.

Motion: That licensee Todd Levesque practiced EMS patient care without a license following the March 31, 2000 expiration of his Maine EMS license; that Maine EMS returned Mr. Levesque's application for license renewal on April 3, 2000 due to insufficient CEH; that Mr. Levesque knowingly practiced without a license and made no attempt to resubmit his application for renewal until the unlicensed practice was discovered by Sanford Fire Department Chief Ray Parent; that Mr. Levesque violated §§ 12.A.17 and 12.A.18 of the Maine EMS Rules; that mitigating circumstances exist because Mr. Levesque had completed the required training and

skills lab prior to the expiration of his license; and that enhancing circumstances exist because Mr. Levesque received direct notice of the rejection of his renewal application, but made no effort to cease practice or remedy the problem. Therefore the Committee directs that Mr. Levesque be offered a consent agreement stipulating a 2 month license suspension or a \$400.00 fine (Hayes; Doughty – motion carries).

Motion: That licensee Paul Morrison practiced EMS patient care without a license following the March 31, 2000 expiration of his Maine EMS license; that Mr. Morrison knowingly practiced without a license and made no attempt to submit his application for renewal until the unlicensed practice was discovered by Sanford Fire Department Chief Ray Parent; that Mr. Morrison had not completed the required training and skills lab prior to the expiration of his license; and that Mr. Morrison violated §§ 12.A.17 and 12.A.18 of the Maine EMS Rules. Therefore the Committee directs that Mr. Morrison be offered a consent agreement stipulating a 2 month license suspension or a \$400.00 fine (Hayes; Doughty – motion carries).

Motion: That Sanford Fire Department allowed Todd Levesque and Paul Morrison to be scheduled for and respond to medical assistance calls on behalf of the Sanford Fire Department during the period of time in which they did not hold a valid Maine EMS license; that the circumstances of the case are mitigated by the prompt action taken by the Sanford Fire Department in addressing the situation; and that the Sanford Fire Department receive a written admonishment in this matter (Hayes; Leach – motion carries).

H. Smithfield Rescue

I. Richard Moore

The Committee was presented with information concerning Smithfield Rescue's response to a call for medical assistance during a period of time following the expiration of the service's license. Richard Moore was the EMT-B who responded to the call and who according to information provided, did not hold a valid CPR card at the time of the response, nor was technically licensed because the sponsoring service's license had expired.

Motion: That neither Smithfield rescue nor Richard Moore were duly licensed at the time of the March 6, 2000 call to which the service and Richard Moore responded; that on the date of the call, Richard Moore knew that he did not have a valid license; that the response by Smithfield Rescue and Richard Moore was with the intent to provide medical care; and that as a mitigating circumstance in the case, any substantive action against the service or Mr. Moore would deprive the Smithfield area of EMS coverage. Therefore the Committee directs that Smithfield Rescue receive a letter of reprimand and that Richard Moore be offered a consent agreement stipulating his adherence to Maine EMS Rules (Hayes; Leach – motion carries).

J. Michael Drake – No action

K. April Keller

The Committee reviewed information regarding an alleged breach of confidentiality by April Keller, a licensed EMT-Basic. Included in the information was the complaint, the licensee's response, a copy of the service-level reprimand received by Keller, and information obtained by Maine EMS.

Motion: That April Keller breached the confidentiality of a patient whom she had attended; that the service with which Ms. Keller practiced took appropriate action in regards to the breach of confidentiality; that the breach was an isolated incident without probability of recurrence, and that Ms. Keller be offered a consent agreement which stipulates voluntary surrender of her EMS license should a breach of confidence occur (Hayes; Doughty – motion carries).

L. Chris Moretto/Medcare/Kasey Mason

This investigation based upon a complaint alleging that Kasey Mason (who has never been EMS licensed) started IV's on patients and wore shirts indicating that she was a licensed provider. Staff reported that no evidence was found to indicate that Mason started IV's, however there were occasions that she would wear apparel with Maine EMS patches (or indications of licensure level) on them. Additionally, by Mason's own admission, she performed IV "setups" while riding as an observer or driver with MedCare, and during a time she was not licensed to perform such tasks.

Chris Moretto, Director of Medcare Ambulance Service was present to answer the Committee's questions. He indicated that the service is in the process of establishing policies to cover the issues raised by this case.

Motion: that Kasey Mason performed skills (i.e. IV setup) requiring a Maine EMS license during the period of time in which she worked as an observer or driver with MedCare Ambulance Service; that she wore uniform clothing that fostered public perception that she was a licensed provider; that the Committee finds no evidence of unlicensed practice by Ms. Mason, other than that described herein; and that MedCare Ambulance Service did not have policies in place regarding use of observers or uniform policy. Therefore, the Committee directs that Ms. Mason be licensed and receive a letter of admonishment and that MedCare Ambulance Service receive a letter of admonishment (Hayes; Pillsbury – motion carries 3-0-2, Knowlton, Doughty abstains).

M. John Sawicki

Discussion regarding this case deferred until the Committee is able to confer with the Attorney Generals office.

3. Applications

- A. Donald Davidson**
- B. Paul Rubashkin**
- C. Paul Dalglish**

These applications were not considered due to the lateness of the hour.

4. Other - Update on current cases

No action taken due to the lateness of the hour.

5. Next Meeting

The next meeting will be held on October 4, 2000.

6. Adjourn – The meeting was adjourned at 5:35 p.m.

Respectfully submitted,

Drexell White,
Licensing Agent